IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 18672 of 2004(W)

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PETITIONER:

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P.PRSANNAN, OPERATOR, KERALA WATER AUTHORITY, P.H.SECTION, CHAVARA, KOLLAM DISTRICT.

BY ADV. SRI.N.VIMALAN

RESPONDENTS:

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1. THE KARUNAGAPPALLY CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANK LTD. NO.Q 467, KARUNAGAPPALLY, REP. BY THE SECRETARY.

2. THE ASSISTANT ENGINEER, KERALA WATER AUTHORITY, P.H.SECTION, CHAVARA P.O. KOLLAM DISTRICT.

3. N.SIVANANDAN, AYIRATHIL HOUSE, ALAPPAD, ALUMKADAVU P.O. KARUNAGAPPALLY.

4. DIVAKARAN, KRISHNALAYAM HOUSE, MARU: SOUTH ALUMKADAVU P.O. KARUNAGAPPALLY.

BY ADV. SRI.P.G.PARAMESWARA PANICKER FOR R1
SRI.P.GOPAL
SRI.C.RASHEED, SC, KWA
SRI.J.KRISHNA KUMAR, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**APPENDIX**

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF LETTER DATED 21.4.1994 ISSUED BY THE 1ST RESPONDENT.

EXT.P2- TRUE COPY OF COMPLAINT DATED 9.3.1995 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

EXT.P3- TRUE COPY OF THE PLAINT IN ARBITRATION CASE NO.2034/1995

EXT.P4 SERIES- TRUE COPY OF SEVEN RECEIPTS SHOWING THE AMOUNT OF RECOVERIES MADE FROM PETITIONER'S SALARY

EXT.P5- TRUE COPY OF LETTER DATED 21.4.2004 RECEIVED FROM THE 1ST RESPONDENT BANK

EXT.P6- TRUE COPY OF REPRESENTATION DATED 23.5.2004 SUBMITTED TO THE 1ST RESPONDENT BANK

EXT.P7- TRUE COPY OF LETTER DTED 20.5.2004 SUBMITTED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT.

EXT.P8- TRUE COPY OF THE REPRESENTAION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 5.6.04

EXT.P9- TRUE COPY OF THE PETITIONER'S SALARY CERTIFICATE DATED 28.2.2004 ISSUED BY THE KERALA WATER AUTHORITY, P.H. SECTION CHAVARA.

RESPONDENT'S EXHIBITS

EXT.R1(a)- TRUE COPY OF THE NOTOCE NO.364/96 DATED 22.2.1996

EXT.R1(b)- TRUE COPY OF THE NOTICE DATED 11.1.1999 ISSUED BY THE SALE OFFICER

EXT.R1(c)- TRUE COPY OF POSTAL ACKNOWLEDGMENT CARD

EXT.R1(d)- TRUE COPY OF THE NOTICE DTED 22.1.2002

EXT.R1(i)- TRUE COPY OF THE LETTER SENT FROM THE BANK TO THE HEAD MISTRESS OF THE GOVERNMENT HIGH SCHOOL, CHERIYAZHEEKKAL DATED 21.4.1994

EXT.R1(j)- TRUE COPY OF THE LETTER SENT FROM THE BANK TO THE ACCOUNTANT GENERAL DATED 18.3.95

EXT.R1(k)- TRUE COPY OF THE POSTAL RECEIPT

EXTR1(l)- TRUE COPY OF THE RELEVANT PAGE OF THE DESPATCH REGISTER OF THE BANK.

(TRUE COPY)

P.A TO JUDGE

**J.M.JAMES, J.**

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W.P.(C). 18672/2004

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Dated this the 5th day of January, 2007

**JUDGMENT**

The writ petitioner is one of the sureties along with the fourth respondent. On the strength of the guarantee of the writ petitioner and the fourth respondent, the third respondent drew a loan of an amount of Rs.26,000/- from the first respondent, bank. The amount had not so far been re-paid, though the loan was taken on 19.1.1988. The fourth respondent was the headmaster who is since retired from the service.

2. The counsel alleges that the first respondent did not take any effective steps to realise the amount from the third and fourth respondents, particularly from the salary of the fourth respondent. After waiting for his retirement and disbursement of other pension benefits, the writ petitioner is being isolated and proceeded against for recovery of the amount, which comes to about 65,747/-. The counsel further submits, that within the limited resources of a pump operator, under the Kerala Water Authority, he is prepared to pay the amount

in instalments, provided the first respondent is granting waiving of interest, including penal interest. The loan may be considered within the specific relaxed scheme, on a decision that may be taken by the Board of Directors, submits the counsel.

3. Without expressing any opinion on the merit of the matter, I direct the writ petitioner to approach the first respondent, bank, and the Board of Directors shall consider the entire sequence of events, that occurred between the principal debtor and the sureties, together with the conduct of the officials of the first respondent, bank. The writ petitioner shall be heard and thereafter, pass appropriate orders, so that the petitioner could be allowed to remit the amount due to the bank, according to his mite and capacity, of course, within the frame work of law applicable.

The writ petition is closed as above.

**J.M.JAMES**
**JUDGE**

mrcs